

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MARK SCHMID,

Plaintiff,

v.

Case No. 2:06-cv-170
HON. ROBERT HOLMES BELL

GERALD HOFBAUER,

Defendant.

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REPORT AND RECOMMENDATION

Plaintiff filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On October 16, 2006, defendant filed a motion to dismiss. On October 31, 2006, the undersigned issued an order requiring plaintiff to file a response to defendant's motion within 28 days. Plaintiff was advised that failure to file a response would result in dismissal of this case for failure to prosecute. Plaintiff has failed to file a response to defendant's motion as ordered by this court. Therefore, it is recommended that plaintiff's complaint be dismissed in its entirety, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute. *See Catz v. Chalker*, 142 F.3d 279, 286 (6th Cir. 1998); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991); *Buck v. U.S. Dept. of Agriculture*, 960 F.2d 603 (6th Cir. 1992).

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within ten (10) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3. Failure to file timely objections constitutes a waiver of any further right to appeal.

United States v. Walters, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley
TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: December 13, 2006